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Rovi Corporation 2830 De La Cruz Boulevard Santa Clara, CA 95050				
EXAMINER				
VON BUHR, MARIA N				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/645,991

**Applicant(s)**

BENSON ET AL.

**Examiner**

M.N. VON BUHR

**Art Unit**

2121

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 Aug 2003, 21 Mar 2005 and 20 Jun 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 54-150 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 54-150 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 08/594,811.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 20050321 & 20050620
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This application is a continuation of U.S. Application Serial No. 09/321,386, which is a continuation of U.S. Application Serial No. 09/164,606, which is a continuation of U.S. Application Serial No. 08/594,811, now issued as U.S. Patent No. 5,845,281, and is, therefore, accorded the benefit of the earlier filing date of 31 January 1996.

2. Acknowledgment is made of Applicant's claim for foreign priority under 35 U.S.C. §119(a)-(d). The certified copy has been filed in parent Application Serial No. 08/594,811, filed on 31 January 1996. In this regard, the instant application is entitled to the priority date of 01 February 1995.

3. Examiner notes, in view of the amended judgment (dated 05 January 2006) in Patent Interference No. 105,142, involving each of the above-noted parent applications, that Applicant is barred from introducing into this application any claims that would have been anticipated by or rendered obvious by the subject matter of any of counts 1, 2 and 4 of that interference, since judgment was against Applicant in the involved claims. See MPEP §2308.03.

4. Examiner acknowledges receipt of Applicant's preliminary amendment, received 21 August 2003; which cancels claims 1-53 and introduces claims 54-150. Claims 54-150 are now pending in this application.

5. Examiner acknowledges receipt of Applicant's information disclosure statements, received 21 March 2005 and 20 June 2005, with accompanying reference copies. These submissions are in compliance with the provisions of 37 CFR 1.97. Accordingly, they have been taken into consideration for this Office action.

6. Examiner acknowledges receipt of Applicant's formal drawings. These drawings are acceptable.

7. The request for interference, filed as part of the preliminary amendment received 21 August 2003, is acknowledged. However, examination of this application has not been completed as required by 37 CFR 41.102(a). Therefore, consideration of any potential interference is premature. See MPEP §2303.

8. Further in this regard, Examiner notes that Applicant has failed to (1) propose one or more counts and (2) show how the claims correspond to the one or more counts, with regard to each of the suggested interferences. See 37 CFR 41.202(a)(2) and MPEP §2304.02(b). Applicant's blanket assertion that "each of the claims being copied be deemed a count for the purposes of provoking an interference" (page 159 of the preliminary amendment filed 21 August 2003) is deemed to be unreasonable, as it would result in 97 counts

with greatly overlapping subject matter. Applicant needs to group claims according to similarity in scope. These deficiencies will require correction, if Applicant intends to pursue any of the requests for interference.

9. As per the request to provoke an interference by copying instant claims 55-95 from U.S. Patent Application Publication No. 2001/0042043 (U.S. Application Serial No. 08/848,077), there can be no interference-in-fact, because U.S. Application Serial No. 08/848,077 has been abandoned.

10. As per the request to provoke an interference by copying instant claims 96-110 from U.S. Patent Application Publication No. 2002/0023214 (U.S. Application Serial No. 09/925,072), there can be no interference-in-fact, because the copied claims have been cancelled from U.S. Application Serial No. 09/925,072.

11. Furthermore, Examiner notes that claims 96, 98-104 and 106-110 are commensurate in scope with claims 6, 9, 10, 14, 18, 20, 21, 26, 29, 30, 34, 38 and 40 of U.S. Patent No. 6,157,721, issued on 05 December 2000. U.S. Patent No. 6,157,721 issued from U.S. Application Serial No. 08/689,754, which is the grandparent application of U.S. Application Serial No. 09/925,072, from which Applicant has copied the claims. Since these claims appear substantially identically in the prior published patent, claims 96-110 are rejected under 35 U.S.C. §135(b)(1) as not being made prior to one year from the date on which U.S. Patent No. 6,157,721 was granted. See *In re McGrew*, 120 F.3d 1236, 1238, 43 USPQ2d 1632, 1635 (Fed. Cir. 1997) where the Court held that 35 U.S.C. §135(b) may be used as a basis for *ex parte* rejections.

12. As per the request to provoke an interference by copying instant claims 111-116 from U.S. Patent Application Publication No. 2002/0048369 (U.S. Application Serial No. 09/948,806), there can be no interference-in-fact, because the copied claims have been cancelled from U.S. Application Serial No. 09/948,806.

13. As per the request to provoke an interference by copying instant claims 117-144 from U.S. Patent Application Publication No. 2002/0112171 (U.S. Application Serial No. 09/764,370), there can be no interference-in-fact, because the copied claims have been cancelled from U.S. Application Serial No. 09/764,370.

14. The following is a quotation of the first paragraph of 35 U.S.C. §112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

15. Claims 54, 56, 57, 60, 61, 64, 66-75, 77-83, 88-95, 97, 103, 105, 111-114, 117-119, 133-137, 141 and 145-150 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As per claim 54, although Applicant presents remarks specifying support for this claim in the instant application (pages 33-36 of the preliminary amendment filed 21 August 2003), the instantly claimed "first/second device class" is deemed not to be supported by the instant specification. This claim was copied from Shear et al. (U.S. Patent No. 6,292,569), wherein a class is defined as different types of electronic appliances and/or appliances with different assurance levels (see col. 15, line 34 - col. 16, line 33). Applicant has not specified where support can be found in the instant specification, specifically for such different types of electronic appliances and/or appliances with different assurance levels, as instantly claimed by the phrase "device class." In this regard, the instantly disclosed multiple levels of security within a general purpose processor is deemed not to be commensurate in scope to the instantly claimed processors of different types nor processors having differing assurance levels (i.e.; levels of security).

As per claims 54, 56, 57, 60, 61, 64, 66-75, 77-83, 88, 90, 95, 103, 111-114, 117-119, 133-137 and 141, the instant specification provides no clear support for the alternative language "and/or." There is no clear support for all three embodiments, as indicated by this language (i.e.; for "A and/or B," support must exist for limitation A alone, limitation B alone, and limitation A with limitation B together). Applicant is required to show where corresponding support exists within the specification for each possibility.

As per claims 88-90, there is no support within the instant specification for "IEEE 1394-1995."

As per claims 91-94, there is no clear support for the instant claim language, since it is unclear which aspects are being referred to.

As per claims 97 and 105, the instant specification provides no support for the instantly claimed "means for providing" the enclosure/barrier.

As per claim 145, although Applicant presents remarks specifying support for this claim in the instant application (pages 141-142 of the preliminary amendment filed 21 August 2003), the instantly claimed "first/second/third rule set" is deemed not to be supported by the instant specification. This claim was copied from Ginter et al. (U.S. Patent No. 6,427,140), wherein a rule set is defined as a set of control data that specifies a right to use a data object (see col. 242, line 25 - col. 243, line 2). Applicant has not

specified where support can be found in the instant specification, specifically for such sets of control data controlling access to the data object, as instantly claimed by the phrase “rule set.” Instead, Applicant has pointed to support for the rule sets including conditions for controlling a transaction. In this regard, the instantly disclosed control data for controlling the transaction negotiation is deemed not to be commensurate in scope to the instantly claimed rule sets for controlling access to the negotiation information. Examiner further notes that Applicant’s analysis of the phrases “first/second rule set” and “third rule set” are inconsistent. At page 141 of the preliminary amendment, Applicant asserts that the instantly claimed “rule sets” are commensurate in scope with “the rules or conditions for buying and selling stocks [as] indicated in the control data” (second block of right-hand column). However, at page 142, Applicant asserts that the “third rule set” is commensurate in scope with the control data that “controls access to and usage of the data object” (third block of right-hand column). Since the third rule set is claimed as being “created as a result of an interaction between the first rule set and the second rule set,” this inconsistent representation of what constitutes a rule set is unsupported. This similarly applies to claims 146 and 147.

As per claim 148, although Applicant presents remarks specifying support for this claim in the instant application (pages 148-149 of the preliminary amendment filed 21 August 2003), the instantly claimed “determining that an additional comparison is required,” “if the negotiation has failed, informing both parties of the failure, and not transmitting the third secure container to the first party” and “if an additional comparison is required, performing that comparison, and repeating until the negotiation either succeeds or fails” are deemed not to be supported by the instant specification. Examiner disagrees with Applicant’s assertions that such features are “inherent” or “could be” performed in the instantly disclosed invention. There is nothing in the instant specification that necessarily supports the instantly claimed “determining that an additional comparison is required,” “informing both parties of the failure” nor “repeating until the negotiation either succeeds or fails.”

As per claim 149, although Applicant presents remarks specifying support for this claim in the instant application (pages 150-153 of the preliminary amendment filed 21 August 2003), the instantly claimed “first/second control” is deemed not to be supported by the instant specification. This claim was copied from Ginter et al. (U.S. Patent No. 6,389,402), wherein control data is defined as specifying a right to use a data object (see col. 242, line 25 - col. 243, line 2). Applicant has not specified where support can be found in the instant specification, specifically for such control data controlling access to the data object, as instantly claimed by the phrase “control.” Instead, Applicant has pointed to support for the control including conditions for controlling a transaction. In this regard, the instantly disclosed control data for controlling the transaction negotiation is deemed not to be commensurate in scope to the instantly claimed control for

controlling access to the negotiation information. Applicant's analysis of the term "control" appears to be inconsistent. At page 150 of the preliminary amendment, Applicant asserts that the instantly claimed "control" is commensurate in scope with "control data, e.g. kind of stock, price, quantity" of a data object (second and third blocks of right-hand column). However, at page 151, Applicant asserts that the "control" provides "access" to the data object (third block of right-hand column). This inconsistent representation of what constitutes a control is unsupported.

As per claim 150, although Applicant presents remarks specifying support for this claim in the instant application (pages 154-158 of the preliminary amendment filed 21 August 2003), the instantly claimed "auditing-related aspect" and "privacy-related aspect" of the control data are deemed not to be supported by the instant specification. This claim was copied from Ginter et al. (U.S. Patent No. 6,363,488), wherein auditing aspects are associated throughout the disclosure with tracking usage of a data object, and privacy aspects are associated throughout the disclosure with either a user's data object usage related details or using a filter to control dissemination of user related information. Examiner disagrees with Applicant that these are commensurate in scope with the instantly disclosed generic types of data; "user type, the usage type, the number of usages, the price, identification, billing address, etc." as asserted by Applicant (page 156 of the preliminary amendment). Furthermore, the instantly claimed "reporting auditing-related information relating to the access to or use of the resource" is deemed not to be supported by the instant specification. In this regard, Applicant asserts that "it is inherent that a broker/agent provides a two-way conduit for rights and audit data between content creators and content users" (page 158 of the preliminary amendment). However, such two-way communication, whether inherent or not, does not necessitate "reporting," in general, nor "reporting auditing-related information," specifically.

**16.** The following is a quotation of the second paragraph of 35 U.S.C. §112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which Applicant regards as his invention.

**17.** Claims 54, 56, 57, 60, 61, 64, 66-75, 77-83, 88-95, 97, 103, 105, 111-114, 117-119, 133-137 and 141 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

As per claims 54, 56, 57, 60, 61, 64, 66-75, 77-83, 88, 90, 95, 103, 111-114, 117-119, 133-137 and 141, the scope of these claims is vague and indefinite, because of use of the alternative language "and/or." One having ordinary skill in the art would not be able to determine the metes and bounds of these limitations.

As per claims 88-90, the scope of the limitation “IEEE 1394-1995” is vague and indefinite, because standards are subject to change with time, and one having ordinary skill in the art would therefore not be able to determine the metes and bounds of this limitation.

As per claims 91-94, the claims have no metes and bounds, since it is unclear which aspects of the claimed figures are being referred to.

As per claims 97 and 105, the “means for providing” the enclosure/barrier is indefinite and has no clear and proper metes and bounds, since it unclear what would constitute such providing.

18. Due to the ambiguities and confusion in claims 91-94, no art has been applied thereto, see *In re Steele*, 49 CCPA 1295, 305 F.2d 859, 134 USPQ 292 (1962) and *In re Wilson*, 424 F.2d 1382, 165 USPQ 494 (CCPA 1970). The examiner will not speculate as to the intended meaning.

19. The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by Applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by Applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by Applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

20. Claims 97, 105 and 111-116 are rejected under 35 U.S.C. §102(c), as being clearly anticipated by Stefik et al. (U.S. Patent No. 5,629,980; newly cited), which discloses “controlling use and distribution of digital works. In the present invention, the owner of a digital work attaches usage rights to that work. Usage rights are granted by the “owner” of a digital work to “buyers” of the digital work. The usage rights define how a digital work may be used and further distributed by the buyer. Each right has associated with it certain optional specifications which outline the conditions and fees upon which the right may be exercised. Digital works are stored in a repository. A repository will process each request to access a digital work by examining the corresponding usage rights. Digital work playback devices, coupled to the repository containing the work, are used to play, display or print the work. Access to digital works for the purposes of transporting between repositories (e.g. copying, borrowing or transfer) is carried out using a digital work



transport protocol. Access to digital works for the purposes of replay by a digital work playback device (e.g. printing, displaying or executing) is carried out using a digital work playback protocol" (abstract).

As per the claims, Stefik et al. teach electronic rights management, based upon usage rights control data, including permissions and public keys. See, at least, col. 1, line 10 - col. 4, line 35; col. 6, lines 19-61; Table 1; and cols. 17-22.

As per claims 97 and 105, Stefik et al. further teach tamper resistance, at least, at col. 12, lines 40-56.

21. Claims 117-144 are rejected under 35 U.S.C. §102(b), as being clearly anticipated by Shear (U.S. Patent No. 4,827,508; newly cited), which discloses "a "return on investment" digital database usage metering, billing, and security system [that] includes a hardware device which is plugged into a computer system bus (or into a serial or other functionally adequate connector) and a software program system resident in the hardware device. One or more databases are encrypted and stored on a non-volatile mass storage device (e.g., an optical disk). A tamper-proof decrypting device and associated controller decrypts selected portions of the stored database and measures the quantity of information which is decrypted. This measured quantity information is communicated to a remote centralized billing facility and used to charge the user a fee based on database usage. A system may include a "self-destruct" feature which disables system operation upon occurrence of a predetermined event unless the user implements an "antidote" -- instructions for implementing the antidote being given to him by the database owner only if the user pays his bill. Absolute database security and billing based on database usage are thus provided in a system environment wherein all database access tasks are performed at the user's site. Moreover, a free market competitive environment is supported because literary property royalties can be calculated based on actual data use" (abstract). See at least, Figs 4a-b and 6, with associated text; col. 3, line 49 - col. 8, line 33; col. 9, lines 11-23; col. 9, line 63 - col. 10, line 7; col. 10, line 63 - col. 11, line 8; col. 12, line 48 - col. 13, line 7.

As per the claims, Shear "relates to regulating usage of a computer database. More particularly, the invention relates to techniques for preventing unauthorized use of an electronic digital information database and for measuring the utilization of the database by authorized users" (col. 1, lines 5-10).

22. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claims 88-90 are rejected under 35 U.S.C. §103(a), as being unpatentable over Stefik et al. (U.S. Patent No. 5,629,980), which discloses “a system for controlling use and distribution of digital works. In the present invention, the owner of a digital work attaches usage rights to that work. Usage rights are granted by the “owner” of a digital work to “buyers” of the digital work. The usage rights define how a digital work may be used and further distributed by the buyer. Each right has associated with it certain optional specifications which outline the conditions and fees upon which the right may be exercised. Digital works are stored in a repository. A repository will process each request to access a digital work by examining the corresponding usage rights. Digital work playback devices, coupled to the repository containing the work, are used to play, display or print the work. Access to digital works for the purposes of transporting between repositories (e.g. copying, borrowing or transfer) is carried out using a digital work transport protocol. Access to digital works for the purposes of replay by a digital work playback device (e.g. printing, displaying or executing) is carried out using a digital work playback protocol” (abstract). Attention is directed, at least, to col. 1, line 10 - col. 4, line 35; col. 6, lines 19-61; Table 1; and cols. 17-22.

As per the claims, although Stefik et al. teach Applicant’s invention substantially as instantly claimed, Stefik et al. do not specify use of an IEEE serial bus port. In this regard, the IEEE standard is an extremely well-known type of standard for bus and their ports. It would have been obvious, to one having ordinary skill in the art, at the time the instant invention was made, to utilize such elements, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Further as per claims 89 and 90, the instantly claimed “watermark” is deemed equivalent to the usage rights of Stefik et al.

24. Claims 55-83 and 95 are rejected under 35 U.S.C. §103(a), as being unpatentable over Stefik et al. (U.S. Patent No. 5,629,980) in view of Ogawa et al. (U.S. Patent 4,967,403; newly cited).

As per the claims, Stefik et al. teach “a system for controlling use and distribution of digital works. In the present invention, the owner of a digital work attaches usage rights to that work. Usage rights are granted by the “owner” of a digital work to “buyers” of the digital work. The usage rights define how a digital work may be used and further distributed by the buyer. Each right has associated with it certain optional specifications which outline the conditions and fees upon which the right may be exercised. Digital works are stored in a repository. A repository will process each request to access a digital work by

examining the corresponding usage rights. Digital work playback devices, coupled to the repository containing the work, are used to play, display or print the work. Access to digital works for the purposes of transporting between repositories (e.g. copying, borrowing or transfer) is carried out using a digital work transport protocol. Access to digital works for the purposes of replay by a digital work playback device (e.g. printing, displaying or executing) is carried out using a digital work playback protocol” (abstract). Attention is directed, at least, to col. 1, line 10 - col. 4, line 35; col. 6, lines 19-61; Table 1; and cols. 17-22.

As per claims 55-68, 71-83 and 95, although Stefik et al. teach Applicant’s invention substantially as instantly claimed, Stefik et al. do not specify that the repository is in the form of a “digital versatile disk optical storage medium.” In this regard, Ogawa et al. suggest a DVD associated with copy protection (col. 1, lines 16-33). It would have been obvious, to one having ordinary skill in the art, at the time the instant invention was made, to use a digital versatile disk in the system of Stefik et al., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Further as per claims 60 and 61, Stefik et al. teach access based on “geographical and/or jurisdictional context” at least at col. 14, line 62 - col. 15, line 20, and col. 22, line 57 - col. 23, line 9, where the instantly claimed “jurisdiction” is deemed equivalent to the certifications/authorizations of Stefik et al.

Further as per claims 67-70 and 78, Stefik et al. teach multiple classes of devices at least at col. 11, lines 30-58, col. 13, lines 42-58, and Table 2.

Further as per claims 73-76 and 79-83, Stefik et al. teach the known use of cryptographic keys (i.e.; encrypting) at least at col. 15, lines 14-19, and col. 26, line 61 - col. 27, line 29.

Further as per claims 84-87, Stefik et al. teach use of a rights authority broker, by teaching a registration transaction for identifying participants and for initiating communication, at least at col. 27, line 30 - col. 29, line 56.

25. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. §103(a), Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for Examiner to consider the applicability of 35 U.S.C. §103(c) and potential 35 U.S.C. §102(c), (f) or (g) prior art under 35 U.S.C. §103(a).

26. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. Applicant is advised to carefully review the cited art, as evidence of the state of the art, in preparation for responding to this Office action.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M.N. VON BUHR whose telephone number is (571)272-3755. The examiner can normally be reached on Monday - Friday (9-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (571)272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/M.N. VON BUHR/  
Primary Examiner, Art Unit 2121